

TAUNTON DEANE BOROUGH COUNCIL

PLANNING COMMITTEE – 18 AUGUST 2004

1 The following appeals have been lodged:-

Appellant	Date Application Considered	Proposal
Swan Hill Homes Ltd (52/2004/018)	16/6/04	Erection of 12 dwellings and formation of access on site of New Barn, 41 Comeytrove Lane, Taunton.
Mr & Mrs S J Smith (38/2004/120)	DD	Erection of first floor extension to rear at 15 Raps Green, Taunton.
Mrs G Baker (14/2004/012)	DD	Change of use and conversion of barn to form dwelling on land to north east of Bedruthan, Bull Street, Creech St Michael.
Mrs H Miles (36/2003/030)	-	Appeal against enforcement notice - unauthorised erection of a front boundary wall/fence over 1m high, adjacent to highway at 2 Meare Green, Stoke St Gregory.
Vodafone Ltd (22/2004/004)	DD	21m lattice tower with associated telephone works land near Thistlewood Bridge, Walcombes Farm, Richs Holford.

2 The following appeal decisions have been received:-

(a) **Re-siting of a 1.9m high boundary wall at 45 Farm View, Taunton (38/2002/072)**

The Inspector felt that the main issue was the effect of the proposed brick wall on the character and appearance of the area.

She felt that a wall immediately adjoining the pavement opposite to the gardens in Blackthorn Gardens would present an unbalanced aspect to the street scene. The uncharacteristic sense of enclosure created would create an intrusive feature within the area.

In conclusion, the Inspector considered that the proposal would be harmful to the character and appearance of the area, in conflict with emerging Local Plan policy.

The appeal was dismissed.

(b) **Erection of dwelling at land between 'Hillcrest' and 'Highfield', Maundown, Wiveliscombe (49/2002/035)**

The Inspector felt that the site was remote from any settlement and a new dwelling would generate extra traffic. He also felt that if permission was granted it would set a very harmful precedent.

In conclusion, the Inspector felt that the benefits of utilising this land as an infill site and occupiers contributing to local community funds did not outweigh the very cogent objection. He acknowledged the difficulty of making the land useful and that it probably had accommodated a dwelling in the past. However, there was no existing right of residential use apparent.

The appeal was dismissed.

(c) **Replacement of existing entrance door and additional window to the shop front, HSBC bank, 17 North Street, Taunton (38/2003/207 and 208LB)**

The Inspector accepted that the works to the entrance door were needed mainly to improve access for disabled persons.

He understood the Council's concern about the effect of the proposed new window, bearing in mind that the appeal building was listed and was located within the town centre. However, the ground floor elevation was very different to that of the original building and was also different to what was in place at the time of the listing.

The Inspector acknowledged that the Council wanted the appellant to carry out changes to restore the traditional shop front appearance. However, he felt that a further window would counterbalance the projecting sign and night safe at the northern end. The Inspector felt that more significantly, the proposed window should be assessed with regard to its likely effect on the character and special interest of the listed building frontage as a whole.

The upper floors were visually separated from the ground floor and, in common with many frontages in the vicinity, the treatment of the ground floor was different to that of the upper floor, where the regular arrangement of windows was conspicuous in the street scene.

In this context, the Inspector took the view that the creation of a new window as proposed would be seen as adequately preserving the visual amenities of the locality and the character and special architectural and historic interest of the listed building.

The appeals were, therefore, allowed and planning permission and listed building consent were granted subject to conditions.

(d) Erection of house on land adjoining Little Garth, Dipford Road, Trull, Taunton (42/2003/015)

Due to the complexity of the Inspector's decision letter, a full copy is attached for the information of Members at Appendix A.

The appeal was allowed and planning permission granted subject to conditions. An application by the appellant for an award of costs against the Council was refused.

(e) Erection of replacement dwelling and detached garage with converted loft at Church Drive, West Buckland (46/2003/019)

The Inspector felt that the main issue was whether the proposed development would preserve the setting of the listed St Mary's Church and character of the surroundings.

He noted that whilst the development would not be seen together with the Church as a whole, it would form an element within its setting. Although there were trees on the site, the proposed two-storey dwelling would be more apparent than the current single storey building. The position of the proposal had kept the visual impact to a minimum and the siting and general form of the building was considered to be acceptable on this substantial site.

The Inspector was concerned that this quite large building and garage might intrude into the setting of the listed building on the approach to the church from the village, and from the churchyard, unless some screening which

currently existed along the boundaries of the appeal site was either retained or reinstated. He was content though that this could be achieved by imposing a planning condition.

The appeal was allowed and planning permission granted subject to conditions.

(f) **Erection of two storey rear extension, single storey side extension, rear conservatory and detached store building at 5 Ilminster Road, Taunton (38/2003/448)**

The Inspector felt that the main issues were the effect of the proposal on the character and appearance of the surrounding residential area and the effect on the living conditions of adjoining neighbours, particularly loss of light and outlook.

The proposed design made no attempt to achieve subservience and, if permitted, would create a marked change in the scale of the existing dwelling, which already projected further to the rear than its immediate neighbours.

In the Inspector's opinion, the proposal would be out of scale and character with the existing dwelling and other houses in the area, and would cause serious damage to the pleasant character of the locality. He concluded that the proposal would cause material harm to the character and appearance of the area.

As far as the effect of the proposal on adjoining neighbours was concerned, the Inspector considered that the significant depth and height of the two-storey extension would result in material loss of sunlight and daylight to No.7 Ilminster Road.

The appeal was dismissed.

(g) **Demolition of existing double garage and erection of bungalow and two double garages on land at 18 Homefield Close, Creech St Michael (14/2004/046)**

The Inspector felt that the main issues were whether the proposal would result in development appropriate to the pattern of surrounding development and whether it eroded the amenities of the occupiers of any neighbouring residential properties.

He considered that the layout of the area was pleasant in its character and appearance, which gave a perception of relative spaciousness. In his view the proposed development would fail to reflect the overriding spacial character of development in the locality and would give the impression of

inappropriately constrained development, with the effect visible both from Homefield Close and neighbouring properties.

In addition, owing to its proportions, the unrelieved elevational treatment, the lack of articulation in certain elevations and its basic fenestration pattern, the Inspector found the dwelling totally lacking in design quality.

He therefore concluded that the proposed development was unacceptable.

Turning to the second issue, the Inspector noted that the appeal proposal would introduce vehicular movement immediately adjacent to the north boundary of 16 Homefield Close. He was of the opinion that vehicles moving adjacent to this boundary would severely erode the residential amenities that occupiers of this neighbouring dwelling might reasonably expect to enjoy.

The appeal was, therefore, dismissed.

(h) **Retention of graphics/vinyl applied to first floor windows at Virgin Megastore, 27-27a Fore Street, Taunton (38/2003/640A)**

The Inspector felt that the signs fitted neatly within the frame of the upper floor windows, and complemented the black glazing bars.

The siting of the advertisements also respected the symmetry of the frontage and their contemporary appearance was in keeping with the design of the façade. In the Inspector's view, the advertisements added visual interest to the building without detracting from the architecture.

He also felt that the trees in front of the building would reduce the visibility of the signs at most times of the year and that they had added vitality to the street scene without appearing too assertive or dominant. The Inspector felt that the signs would have no adverse impact on the character or appearance of the Hammet Street Conservation Area.

In conclusion the Inspector considered the signs were acceptable in relation to the site and its surroundings.

The appeal was allowed and consent granted for the display of the advertisements.

(i) **Display of internally illuminated signs at Carpetright – Site at Priory Fields Retail Park, Taunton (38/2004/065A)**

The Inspector felt that the main issue was the visual impact of the displays.

He felt that because there was a good deal of ambient light in the immediate foreground, the impact of the illuminated signage would be minimal and that the appeal signs would not be unduly conspicuous in the general street scene.

In conclusion, the Inspector felt that the appeal signs were acceptable in relation to the appeal site and its surroundings.

The appeal was, therefore, allowed and consent was granted for the display of the advertisements.

(j) **Use of land for siting of agricultural workers mobile home at Triangle Farm, Churchstanton, Taunton (10/2003/022)**

Due to the complexity of the Inspector's decision letter, a full copy is attached for the information of Members at Appendix B.

The appeal was allowed and temporary planning permission granted subject to conditions.

(k) **Erection of eleven houses and three flats on site of former Whites Repair Garage, South Street, Taunton (38/2003/402)**

The Inspector felt that the main issue was whether the proposed car free residential development was acceptable in this location.

He considered that there was strong policy support for car free housing schemes on sites that adjoined Taunton Town Centre. The question of whether the increased demand would cause significant parking or highway problems was considered, but the Inspector was happy that during the day, there was capacity for short term parking on local streets, with longer term parking available in Duke Street Car Park. In the evenings and overnight, parking would be available within 300m of the appeal site.

The Inspector could see no reason why the development would cause highway safety problems in the area. Vehicles parking in South Street for short periods of time, would be a common characteristic of sites in inner urban areas. The carriageway was sufficiently wide enough to allow traffic to flow safely and no concerns had been expressed by the Highway Authority.

Concerns had been expressed by residents in Alma Street but it was thought that the replacement of an unsightly building with new 2-storey dwellings would be a considerable visual improvement and would not have a significant effect on light or appear unduly oppressive.

The Inspector concluded that this car free residential development, which accorded with local and national planning policies, was acceptable in this location.

The appeal was allowed and planning permission granted subject to conditions.

An application by the appellants for an award of costs was successful.

(l) **Appeal against enforcement notice – Retention of garage/shed on land at Fordbridge, Dairy House Lane, Bickenhall (04/2002/04)**

The Inspector considered the main issue to be the effect of the structure on the character and appearance of the surrounding rural area and the Special Landscape Area.

The storage building had been erected in open countryside, outside any town, rural centre or village and without any claimed agricultural justification. Although the requirement of a workshop/store to serve the needs of a wildlife sanctuary were well intentioned, planning permission was required.

The siting of the store was of concern, as it has been sited in an exposed area and was very apparent from the lane and public right of way. Rather than a store, the structure which was sited next to the driveway, seemed more like an ancillary residential building – an impression not assisted by its domestic scale and appearance.

In conclusion, the Inspector thought that whilst it was not unreasonable to require a workshop/store in connection with the proposed wildlife sanctuary on the land the structure, in such a prominent position, had an adverse effect on the character and appearance of the surrounding rural area and the Special Landscape Area.

The appeal was dismissed and the enforcement notice upheld

(m) **Erection of a new dwelling on land adjoining Allerford Cottages, Allerford, Oake (25/2003/026)**

The Inspector considered that disused railway tracks did not fall into the category of previously developed land and doubted whether the proposed dwelling in its raised position could be successfully screened.

In his opinion, the increased use of the narrow and unlit access road and the sub-standard junction with the B3227 would create an additional hazard to road safety. He also noted that the visibility at the access to the site was only about half of the normal requirement.

The Inspector concluded that the appeal proposal would be in harmful conflict with national and local policies for the protection of the countryside and the prevention of development in unsustainable locations.

The appeal was dismissed.

(n) **Replacement windows at 1 Heathfield Farmhouse, Creech Heathfield (14/2003/045LB)**

The Inspector considered the main issue was the effect the proposal would have on the character and appearance of the listed building.

The Inspector felt that the replacement windows would create an appearance materially different from the existing, particularly the difference in the dimensions and proportions of the glazing bars. He felt that the delicacy of details in the original windows would be lost.

It was also thought that secondary windows would be more effective than double-glazed units at reducing sound transmission and could, if properly designed and installed, provide a level of security equivalent to that of double-glazed windows.

The Inspector concluded that replacement of the existing windows with new double glazed windows would materially detract from the character and appearance of the listed building.

The appeal was dismissed.

(o) **Retention of 1.85m fence to rear and side of 99 Burge Crescent, Cotford St Luke, Taunton (06/2003/052)**

The Inspector considered that the main issue was the effect of the fence on the appearance of the immediate area.

He felt that the fence that had been erected alongside the footpath had eroded the openness within this part of the development and, should the opposite open space be similarly enclosed, the path would be turned into a short but narrow alley.

The Inspector concluded that the fence was an intrusive feature, the retention of which would significantly harm the attractive and open appearance of the immediate area.

The appeal was dismissed.



Appeal Decision **APPENDIX A**

Hearing held on 13 January 2004
Site visit made on 13 January 2004

by **Stephen Roscoe** BEng MSc CEng MICE

an Inspector appointed by the First Secretary of State

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Date

06 FEB 2004

Appeal Ref: APP/D3315/A/03/1118558
Little Garth, Dipford Road, Trull, Taunton, TA3 7NN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs T Spurway against the decision of Taunton Deane Borough Council.
- The application (Ref.42/2003/015), dated 19 February 2003, was refused by notice dated 29 April 2003.
- The development proposed is a two storey dwelling with a new driveway.

Summary of Decision: The appeal is allowed and planning permission granted subject to conditions set out in the Formal Decision below.

Procedural Matters

- 1 An application for costs was made by Mr and Mrs T Spurway against Taunton Deane Borough Council. This application is the subject of a separate Decision.

Main Issue

- 2 I consider the main issue in this case to be the effect of the proposed development on the character and appearance of the surrounding area.

Planning Policy

3. The development plan includes the Somerset and Exmoor National Park Joint Structure Plan adopted in 2000. Whilst I have been referred to various policies within this plan, the most relevant is Policy STR4. This policy seeks to ensure that new development is focussed on the towns identified in the plan, which includes Taunton, and that development is in accordance with the town's role and function, and individual characteristics and constraints. It also records that priority should be given to the re-use of previously developed land.
4. The development plan also includes the Taunton Local Plan First Alteration adopted in 1990. Within this plan, criterion 1 of Policy H/4 requires that the scale of new housing development, including infill sites within the recognised limit of Taunton, should conform to the level of change indicated for the sub-area. I have not been provided with any such information relating to the sub area in which the appeal site is located, and I cannot therefore take this policy into account in my decision.
5. The development plan is in the process of being replaced and I have been referred to the Taunton Deane Local Plan – Approved for Revised Deposit – 3 October 2000. Criterion (D) of Policy S1 requires that proposals for development do not harm the appearance and character of any affected landscape, settlement, building or street scene.

Policy H1 is permissive towards housing development within the defined limits of settlements and criterion (G) of this policy requires that small scale schemes in existing residential areas, which increase development density, do not either individually or cumulatively erode the area's character or residential amenity. The emerging plan has been the subject of an Inquiry, and the Inspector's report has been received by the Council. I understand that the Inspector has not recommended any changes to the elements of the policies to which I have referred, and I can therefore give them significant weight

6. In considering this appeal I have also taken into account relevant government advice, including that contained in Planning Policy Guidance Note 3 (PPG3): Housing. Paragraph 54 of PPG3 supports the more efficient use of land, although paragraph 56 encourages local authorities to focus on the quality of living environments being created.

Reasons

7. The appeal site is part of the garden of a detached house, Little Garth, which is situated within the settlement of Trull on the outskirts of Taunton. The garden boundary is coincident with that of the settlement. The appeal proposal comprises a 4 bedroomed house.
8. Little Garth is one of 4 adjacent houses which are set in spacious plots and form a finger of the settlement which projects into the open countryside. These spacious plots on Dipford Road are however a relatively small proportion of housing in the surrounding area. Other development in this part of the village includes a recently built area of detached housing at Barton Green, which lies adjacent to a field, and houses on Comeytrove Road, which back onto open countryside. The proposed plots for the appeal house and Little Garth would have a similar width and front garden length to some of the properties on Comeytrove Road and those at Barton Green. The appeal house and Little Garth would therefore appear to have a similar density and built form to these properties when seen from public areas, and would therefore not be out of character with the density of the surrounding area. The proposed rear gardens would be some 11m in length, which is shorter than those on Comeytrove Road, but in my view adequate for the size of the properties. I do not consider that the smaller rear gardens would be apparent from the nearby public footpath or other areas of the open countryside, and they would therefore not increase the apparent density of the area.
9. The side elevation of the proposed house would be between 2 and 4m from the side elevation of Little Garth. While this spacing would be less than currently exists between each of the 4 adjacent houses, it would be similar to some of the houses in Barton Green, which is approximately 200m from the appeal site, and some of the houses on Comeytrove Road. At my site visit I also saw that an extension is being constructed at Greystone on Comeytrove Road, approximately 100m from the appeal site. This will almost fill a gap with the adjacent house, Springfield. In my opinion therefore, the gap between the proposed house and Little Garth would not be unusual for the area and I do not consider that the proposal would be out of character with the spacing of properties in the surrounding area.
10. The boundary between the appeal site and the open countryside comprises a 1.8m high close boarded fence. In my opinion this forms a distinctive boundary and I did not see any merging of settlement and countryside as suggested by the Council. Although there is a decrease in density moving away from the village core, I did not generally find that the

lowest densities were at the boundary of the settlement. My attention has been drawn to recent development at Bradbeers, The Thatches, Wyverne Road and Manor Farm, which I viewed on my visit. At these locations higher densities exist at the edge of the settlement. I also understand that there are no specific policies relating to the density or the nature of development in any transitional areas between the settlements and the countryside. I therefore do not consider that the proposal would have a harmful effect on the settlement boundary or conflict with the development plan in relation to the boundary. I have also been referred to a development under construction on Comeytrove Road which I saw on my site visit. This development comprises a new dwelling in the side garden of Roseacre. I consider that this adds weight to my opinion that higher densities are present towards the edge of the settlement. I have also taken into account that the side elevation of the proposed house would be 1.5m from the settlement boundary.

11. Near to the appeal site, Dipford Road has a generally enclosed appearance due to elevated properties, high hedges and an elevated footway. The 4 spacious plots are therefore not easily seen from the road. The roofs of the 4 properties however can be seen, but when viewed from any distance the spaces between them are not generally visible, and these spaces are therefore not a significant feature of the road. I understand that the Council has also recently permitted a 2 storey side extension to Little Garth. I therefore consider that the reduced spacing between the proposed house and Little Garth would not appear cramped or out of character with the remaining 4 houses and the built up frontage. In my opinion the development would therefore accord with advice in PPG3 in relation to the more efficient use of land, and the advice on the quality of living environments
12. The proposed house and Little Garth would have a similar height, scale and form when viewed from the road. Although the proposed house would be set forward by some 3m from the front façade of Little Garth, this projection would only comprise the ground floor. I therefore do not consider that the proposed house would dominate Little Garth.
13. I therefore conclude that the proposed development would not have a harmful effect on the character and appearance of the surrounding area. I further conclude that it would thus accord with Structure Plan Policy STR4 and not conflict with criterion (D) of Local Plan Policy S1 or criterion (G) of Local Plan Policy H1.

Other Matters

14. The existing house, Little Garth, has 2 first floor windows in the side elevation which would face the proposed house. I consider that these windows could result in a loss of privacy to the occupiers of the proposed house through the proposed ground floor dining room, study and utility room windows. The first floor windows on Little Garth provide light and ventilation to 2 bedrooms. Each bedroom however has another window, and I consider that the harm I have identified could be overcome by the use of an appropriate condition. The proposed house would have 2 first floor windows facing Little Garth, which could result in a loss of privacy to the occupiers of Little Garth. These windows in the proposed house would provide light and ventilation to a bathroom and an ensuite. Although the appellants have stated that these windows would be obscure glazed this is not detailed in the application. Should the appeal be allowed, a condition would therefore be necessary to ensure that obscure glazing was fitted and maintained. I do not consider that the ground floor openings on the side elevations of Little Garth and the proposed house which face

each other would result in any material loss of privacy when a reasonable level of boundary treatment is taken into account.

15. At the hearing I was referred to various documents relating to the open countryside to the west of the appeal site, and its potential use for housing development. I understand that these documents are not part of the development plan or supplementary planning guidance, and I have therefore given limited weight to the representations made at the hearing in relation to this matter.
16. The proposed access would incorporate part of a nearby field access. I do not however consider that the proposal would materially affect the field access.

Conditions

17. I have considered the conditions suggested by the Council in the event of the appeal succeeding in the light of Circular 11/95: The Use of Conditions in Planning Permissions. I consider that conditions in relation to the approval of external samples, a landscaping scheme, boundary hedge and fence details, and the retention of the southern boundary hedge are necessary in the interests of visual amenity. In my view however, it would be reasonable to undertake the proposed planting following completion of the development, and a condition to require the replacement of failed trees or plants within a 5 year period is necessary. I also consider that the southern boundary hedge should be retained at its current height for a period of 5 years until the garden planting is established, and that should it fail, it should be replaced. In my opinion conditions relating to the provision of a parking area and appropriate drainage are also necessary, in the interests of highway safety.
18. I have already identified the possibility of harm in relation to loss of privacy. I consider that this could be overcome by requiring the first floor windows which face each other on Little Garth and the proposed house, to be fitted with obscure glazing and thereafter maintained. The application shows that these windows on the proposed house would be hinged in such a manner that in the open position they would still protect the privacy of the occupiers of Little Garth. I do not therefore consider that they would need to be non opening. The existing bedroom windows on Little Garth however would not provide such protection, and in my opinion these should be non opening, with the exception of top lights which would not reduce privacy. The windows on Little Garth are under the control of the appellant, and therefore any condition would be enforceable in accordance with paragraph 14 of Circular 11/95.
19. At my site visit I saw that the appropriate visibility splay would be accommodated on a grass verge outside the property, which I understand is part of the adopted highway. I do not therefore consider that a condition is necessary to protect the visibility splay. The Council has suggested a restriction on permitted development rights in relation to walls and fences. At the hearing, the Council explained that the purpose of the condition was to prevent unacceptable boundary fences, and both parties agreed that this condition was unnecessary in view of the boundary fence condition which I have already considered. I concur with the view that this condition is unnecessary.

Conclusion

20. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.
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Formal Decision

21. I allow the appeal and grant planning permission for a two storey dwelling with a new driveway at Little Garth, Dipford Road, Trull, Taunton, TA3 7NN in accordance with the terms of the application [Ref.42/2003/015] dated 19 February 2003, and the plans submitted therewith, subject to the following conditions:
- 1) The development hereby permitted shall be begun before the expiration of five years from the date of this decision.
 - 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 3) The first floor windows on the elevation facing Little Garth shall be fitted with obscure glazing and thereafter maintained as such.
 - 4) The first floor windows of Little Garth on the elevation facing the permitted development shall be fitted with obscure glass and thereafter maintained. The windows, apart from top lights, shall be non opening and thereafter maintained as such.
 - 5) No development shall take place until full details of soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include planting plans and schedules of plants, noting species and proposed numbers.
 - 6) All planting comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
 - 7) The existing hedge on the southern boundary of the site shall be retained to at least its current height, except at the point of the proposed access. If this hedge is removed, uprooted or destroyed or dies, another hedge shall be planted at the same place and that hedge shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority. This condition shall have effect until the expiration of 5 years from the date of the occupation of the building or the completion of the development, whichever is the sooner.
 - 8) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before development takes place. Development shall be carried out in accordance with the approved details.
 - 9) The building shall not be occupied until the parking, turning space and access areas shown on drawing No 0243/05 have been drained and surfaced in accordance with details to be submitted to, and approved by, the local planning authority, and these areas shall not thereafter be used for any other purpose.

Information

22. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.
23. This decision does not convey any approval or consent that may be required under any enactment, by-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.
24. An applicant for any approval required by a condition attached to this permission has a statutory right of appeal to the Secretary of State if that approval is refused or granted conditionally or if the authority fails to give notice of its decision within the prescribed period.

Stephen Rane

INSPECTOR



Appeal Decision

Hearing held on 15 June 2004

Site visit made on 15 June 2004

by **David Grace** BSc DipTP MRTPI

an Inspector appointed by the First Secretary of State

APPENDIX B.

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Date **28 JUN 2004**

Appeal Ref: APP/D3315/A/03/1136649

Triangle Farm, Churchstanton, Taunton, Somerset, TA3 7QW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr A A Burrow against the decision of Taunton Deane Borough Council.
- The application (Ref. 10/2003/022), dated 22 July 2003, was refused by notice dated 1 October 2003.
- The development proposed is siting of mobile home to be used as an agricultural workers dwelling.

Summary of Decision: The appeal is allowed and planning permission granted subject to conditions set out in the Formal Decision below.

Procedural Matters

1. The copy of the application form that I have been provided with is neither signed nor dated. However, the Council confirmed during the Hearing that the application that was determined was dated 22 July 2003. The appellant agreed with this. Also, following discussions with the Council in respect of siting of the mobile home, the appellant submitted revised application plans (dated 20 August 2003). These are the plans that were determined by the Council. I have dealt with the appeal on that basis.
2. The appellant says his intention has been to seek temporary permission for the siting of a mobile home for a period of three years, although the application form does not clearly indicate this to be the case. During the Hearing the Council were content that the submission should be treated as a temporary proposal and suggested a condition in that respect. There are no written objections to the scheme from other interested parties. In my view the interests of other parties would not be affected and I have dealt with the appeal on the basis of the proposal being for temporary siting of a mobile home to be used as an agricultural worker's dwelling for a period of three years.

Planning Policy

3. The development plan includes the Somerset and Exmoor National Park Joint Structure Plan Review of 2000. Structure Plan Policy STR1 promotes sustainable development and includes a requirement that the pattern of land use and transport should minimise the length of journeys and the need to travel. Structure Plan Policy STR6 states that development outside of towns, rural centres and villages should be strictly controlled and restricted to that which benefits economic activity, maintains or enhances the environment and does not foster growth in the need to travel.
4. I have also been referred to the emerging Taunton Deane Local Plan (Revised Deposit). This is at an advanced stage of preparation and is a material consideration of substantial weight. Emerging plan Policy S8 states that outside defined settlement limits development will not be permitted unless, amongst other things, it is for the purposes of agriculture. Emerging plan Policy H14 states that dwellings for agricultural workers will be permitted outside limits of settlements provided there is a proven functional need for the dwelling there and the farm unit

for which it is sought is proven to be financially viable. Emerging plan Policy H15 indicates that where agricultural dwellings are permitted in accordance with Policy H14 appropriate conditions will be used to retain the dwelling for agricultural occupation.

5. The appeal site is situated in the Blackdown Hills Area of Outstanding Natural Beauty (AONB) where Planning Policy Guidance 7: The Countryside - Environmental Quality and Economic and Social Development (PPG7) advises that the primary objective is conservation of the natural beauty of the landscape. Emerging plan Policy EN10 accords with this advice.

Main Issue

6. I consider the main issue in this appeal is whether there is an agricultural need for the proposed mobile home sufficient to justify an exception to policies designed to control residential development in the countryside.

Reasons

7. The appeal site is located at Triangle Farm, which is approximately one mile from the village of Churchingfield. It is not contested that the site is in the countryside outside of defined settlement limits at a location that would be heavily reliant on the use of a car and where residential development would normally be strictly controlled. However, the proposal is for a temporary agricultural dwelling and the emerging plan policies and PPG7 make provision for such exceptional development in appropriate circumstances.
8. The appellant operates a contract calf-rearing unit in a large portal-framed agricultural building at Triangle Farm. 2-week old calves are brought to the unit and reared for approximately 10 weeks until they are weaned. After this the calves are moved on to other holdings. The calves are then replaced and stock numbers at the unit are maintained. At the time of the Hearing there were in excess of 240 calves in the unit. Due to the turnover associated with the operation the number of calves at the unit varies between 100 and 300 but currently averages out at around 240. The premises have the potential to accommodate an average of some 280 calves. The stock is supplied by a dealer and is not owned by the appellant.
9. The business was commenced in its present form in March 2003 following a trial period of approximately two years involving smaller stock numbers. The unit is subject of a Farm Business Tenancy Agreement for 5 years running from March 2003. From the information before me, I consider it constitutes a separate agricultural holding from the remainder of Triangle Farm, which is mainly used for grass keep. The appellant is the sole full-time worker in the business.
10. The appeal proposal is for a temporary agricultural dwelling to serve a relatively new enterprise. Paragraph I14 of Annex 1 PPG7 provides criteria for considering such proposals. The first criterion requires clear evidence of a firm intention and ability to develop the enterprise. The appellant has committed to a 5-year tenancy agreement and substantial investment has been made in fitting out the building with the necessary stalls and equipment. The business has operated for more than a year, and the working pattern associated with it demonstrates a substantial commitment by the appellant to the business. The operation requires specific abilities and knowledge which are possessed by the appellant who has considerable experience of calf rearing. Whilst it has not been necessary for the appellant to make a significant investment in new farm buildings because the unit makes use of an existing building, I am satisfied that the requirements of the first criterion are met.

11. The second criterion requires a functional need for the dwelling to be demonstrated. The business requires the care of a large number of very young animals that are susceptible to a number of diseases. The appellant says that typically one in four calves would suffer from one of the common diseases in the first 7-8 weeks of life. Pneumonia and scour are particular problems. Unless treated within hours of symptoms being displayed animals may die and the sickness may spread to other animals. Early recognition of symptoms, which can quickly be displayed, is essential in order that early treatment can be provided. Stock mortality of 5% at the unit is currently higher than the 2% allowed for in the contract with the dealer. The appellant says this could be reduced if someone were constantly on hand to deal with problems and emergencies that arise.
12. Calf rearing is an intensive activity. The current working pattern involves a period from 5.30am to 9.30am for the provision of the main feed, presence at the unit between 12 and 3pm, a second feed between 5.30pm and 9pm and bed down of the stock at around 11pm. Extra attendance may be required subject to weather conditions, as ventilation and temperature control are important environmental factors. In my view, at the indicated stock levels, there is clear evidence of a need for someone to be readily available at the unit at most times both for routine activities and in case animals require essential care at short notice. As the appellant currently lives some 8 miles from the unit I consider there is a functional need for a dwelling to serve the unit.
13. The third criterion requires the enterprise to be planned on a sound financial basis. The agricultural appraisal submitted by the appellant indicates that, other than rent, the costs associated with the business are not great. Feed and medicines are supplied by the owners of the stock and the appellant is the sole source of labour. The appraisal suggests that with an average of 200 calves reared for 10 weeks (960 pa) net profit would be in excess of £11,000. The intention is that in year 2 stock levels would average 240 (1152pa). This could generate a net profit of almost £14,500. The enterprise is now in its second year, and at the time of the Hearing there were more than 240 calves in the unit. In year 3 an average of 280 calves is anticipated (1344pa). If this were to be achieved there could be a net profit of over £17,000.
14. There is no long term contract or commitment to such levels of stock supply by dealers and the Council says the stock levels could reduce rather than grow. However, the appellant contends, and I have no reason to disagree, that because the calves are a by-product of dairy herds the source is very large and constant. The market is therefore relatively stable unless there are unexpected shifts such as would result from a major occurrence such as foot and mouth disease. Furthermore, the demand for calf-rearing units, such as the appeal business, is high. Whilst, in general terms, there are many large buildings in the countryside that could be used for calf-rearing, the necessary skills are not available to the same extent and therefore are in demand. Overall, I am satisfied that the business has been planned on a sound financial basis.
15. The fourth test is whether another dwelling on the unit or other suitable accommodation in the area could fulfil the functional need. There is no existing dwelling associated with the appeal holding. There is an agricultural dwelling at Triangle Farm. It is the subject of an agricultural occupation condition. The Council says this is at an ideal location to serve the functional requirements of the calf-rearing unit. I agree. However, it is currently occupied, in accordance with the occupancy condition, by the widow of a person solely or mainly employed locally in agriculture. It is not therefore currently available to meet the needs of the appeal business. No

evidence has been drawn to my attention that alternative suitable accommodation is currently available elsewhere in the locality.

16. The Council are concerned that if the appeal proposal were approved it could subsequently become a permanent dwelling. This would result in there being two permanent agricultural dwellings at Triangle Farm. The Council consider that the calf-rearing unit is now the main agricultural business at Triangle Farm and that consequently a functional need for an agricultural dwelling to serve the remainder of the farm may no longer exist and that if the current occupation of the dwelling in accordance with the occupancy condition were to cease, it would be likely that there would be an oversupply of agricultural dwellings at the farm.
17. The Council is also concerned that if the appeal business were successful, it could grow beyond the currently anticipated average stock level of 280 calves. The Council says the tenancy area has no space for additional buildings and there is no guarantee that additional land would be made available. This could result in the business moving elsewhere in the longer term. The proposed dwelling would then no longer be needed. If, in the meantime, a permanent dwelling has been permitted at the appeal site, this would also lead to an oversupply. The Council considers that in these circumstances there could be pressure to remove the agricultural occupancy condition from one of the dwellings at Triangle Farm.
18. However, paragraph I18 of Annex I PPG7 advises that an agricultural occupancy condition can ensure that the dwelling is kept available to meet the needs of other farm or forestry businesses in the locality if it is no longer required for the original business. Furthermore, as the use of the existing bungalow is in accordance with the occupancy condition, and as it is my view that there is a functional need for residential accommodation to serve the appeal business, I consider, at this point in time, that two dwellings on separate holdings at Triangle Farm, would not represent an over supply. In any event, it falls to me to consider the appeal proposal on its own planning merits, which is how I have dealt with the appeal. From the information before me, I consider there is currently no suitable alternative dwelling to the appeal proposal to meet the functional need of the calf-rearing unit. Moreover, the proposed development is for a temporary period of three years. After which time the availability of an alternative agricultural dwelling in the locality, including Triangle Farm, could be reviewed.
19. The fifth requirement is that the scheme satisfies other normal planning requirements. The amended plans show the proposed mobile home to be sited to the north-west of the existing bungalow immediately adjacent to the calf-rearing building and to the south of an existing hedge. It would be set well back from the road. In my view, this siting would minimise the visual impact of the development on the natural beauty of the landscape of the AONB.
20. The application drawings do not show details of the access and parking arrangements. However, it was agreed during the hearing that a satisfactory scheme could be provided on land in the control of the appellant and that this could be dealt with by condition.
21. Overall, I consider the proposed temporary siting of a mobile home satisfies the requirements of PPG7 and emerging plan Policy H14 in respect of a dwelling to support an agricultural unit. Therefore, in my view, the development would not conflict with emerging plan Policy S8 which would otherwise control residential development in the countryside. I consider this outweighs the proposal's lack of accord with Structure Plan Policies STR1 and STR6. The proposed siting of the development would minimise its adverse effect on the natural beauty of the landscape of the AONB. In my judgement, the impact would not be so great as to outweigh the

development's accord with the other policies in respect of development in service of agriculture. I conclude on the main issue that the agricultural need for the proposed mobile home is sufficient to justify an exception to the policies designed to control residential development in the countryside.

Conditions

22. The period of the temporary permission should form a condition. I modify the council's proposed wording to reflect the date of this decision. An agricultural occupation condition accords with the requirement of emerging plan Policy H15 and is essential. I modify the proposed wording to more closely reflect the model condition suggested in PPG7.
23. The Council proposes a condition in respect of car parking. It was agreed during the Hearing that the condition should also refer to turning arrangements. It was also agreed that there should be a condition in respect of access arrangements. In the interests of highway safety I agree it is necessary to deal with these matters and consider they can be included in a single condition.

Conclusions

24. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should succeed.

Formal Decision

25. I allow the appeal and grant planning permission for temporary siting of a mobile home to be used as an agricultural worker's dwelling for a period of three years at Triangle Farm, Churchstanton, Taunton, Somerset, TA3 7QW in accordance with the terms of the application [Ref. 10/2003/022] dated 22 July 2003, as subsequently amended by the plans dated 20 August 2003, subject to the following conditions:
 - 1) The development hereby permitted shall be begun before the expiration of five years from the date of this decision.
 - 2) The mobile home hereby permitted shall be removed and the land restored to its former condition no later than three years from the date of this decision in accordance with a scheme of work submitted to and approved in writing by the local planning authority.
 - 3) The occupation of the dwelling shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or forestry, or a widow or widower of such a person, and to any resident dependants.
 - 4) No development shall take place until a scheme for access into the site and for the parking and manoeuvring of two vehicles has been submitted to and approved in writing by the local planning authority. The scheme shall include details of the consolidation, surfacing and drainage of the access and the parking and manoeuvring area and shall be implemented in full before the mobile home hereby permitted is first occupied.



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